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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,111	10/14/2003	Lanny R. Smith	40059-0007	6786
7590	11/16/2005		EXAMINER	
Kulaniakea Fisher Rader, Fishman & Grauer PLLC 10653 S. River Front Pkwy., Ste. 150 South Jordan, UT 84095			KIM, SANG K	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/686,111	SMITH, LANNY R.
	Examiner	Art Unit
	SANG KIM	3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 October 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4,6-22,24 and 26-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 31-35 is/are allowed.
- 6) Claim(s) 1,2,4,6-10,13-18,21,22,24,26-29 and 36-40 is/are rejected.
- 7) Claim(s) 11,12,19,20,30,41 and 42 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

The indicated allowability of claims 1-2, 4, 6-10, 13-18, 21-22, 24, 26-29, and 36-40 are withdrawn in view of the newly discovered reference(s) to MacDonald '152.

Rejections based on the newly cited reference(s) follow.

Claim Objections

Claims 11-12, and 30 are objected to because of the following informalities, and it is suggested that the claims be rewritten to recite as listed below:

In claim 11, the phrase, "shaft, the gear mechanism...the torque limiter." should be --shaft and connected to the gear mechanism to drive the gear mechanism in response to the rotatable drive shaft, wherein the gear mechanism includes the shift member.--.

In claim 30, the phrase, "drive shaft...the shift member." should be --drive shaft and connected to the gear mechanism to drive the gear mechanism in response to the rotatable drive shaft, wherein the gear mechanism includes the shift member.--.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 6-8, 13-18, 21-22, 24, 26-27, 36-38, and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by MacDonald et al., U.S. Patent No. 4815152.

With respect to claims 1 and 13, MacDonald '152 shows a apparatus for winding and unwinding a swimming pool cover using a motor 10 via drive shafts 12, 60; a reel unit 18 to wind/unwind a rope; a drive cone unit to wind/unwind the swimming pool cover A; a gear mechanism (figure 11) driven by the rotatable drive shafts, and adapted for driving the reel unit 18 and the drive cone in first and second directions respectively; and a shift member 88 associated with the gear mechanism to selectively engage the reel unit or the drive cone in a pivot motion, see figures 8 and 11-14.

With respect to claim 2, MacDonald '152 shows the reel unit 18 collecting the rope and the drive cone unit collecting the swimming pool cover.

With respect to claims 4, 6-7, 16-18, 36-37, and 40, MacDonald '152 shows the gear mechanism includes a shift base 90 for mounting the shift member 96 onto the base to provide a pivot movement with the pull of gravity and approximately 45 degrees with respect to the longitudinal axis of the rotational drive shaft, see figures 11-14, and in column 5, lines 10-15.

With respect to claims 8 and 38, MacDonald '152 shows the shift base 90 connected to a plate 86 via fastener holes, which can be removed and reattach to the gear mechanism, see figures 11-14.

With respect to claim 14, MacDonald '152 shows the reel unit 18 includes drive first drive lugs 26 to engage the shift member 88 as the drive shaft moves in the first rotational direction, see figure 11-14.

With respect to claim 15, MacDonald '152 shows the cone unit includes second drive lugs 70 to engage the shift member 88 as the drive shaft moves in the second rotational direction, see figure 11-14.

With respect to claims 21-22, 24, and 26-27, the method described in these claims would inherently result from the use of invention of MacDonald '152 as advanced above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-10, 28-29, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald et al., U.S. Patent No. 4815152.

MacDonald '152 shows the shift base 90 connected to a plate 86 via fastener holes, which can be removed and reattach to the gear mechanism, see figures 11-14; however, MacDonald '152 does not explicitly explain or show if the shift base 90 can be in a different position.

MacDonald '152 discloses the claimed invention except for placing the shift base in a different position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to flip the plate so that a first position of the plate can be switched into a second position approximately 90 degrees from the first position

in order to provide the shift member to engage different lugs. Furthermore, it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

With respect to claims 28-29, the method described in these claims would inherently result from the use of invention of MacDonald '152 as advanced above.

Allowable Subject Matter

Claims 31-35 are allowed.

Claims 11-12, 19-20, 30, and 41-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The claims are patentable over the prior art of record because the teachings of the references taken as a whole do not show or render obvious the combination set forth in claim 31, including all the structural elements recited in the claim above, and a gear mechanism including a shift member to pivot a first position to engage and drive the reel unit in a first rotational direction and to pivot a second position to engage and drive the drive cone unit in a second rotational direction; and a torque limiter mounted on the rotatable drive shaft and connected to the gear mechanism to drive the gear mechanism in response to the rotatable drive shaft. The prior art of record, especially MacDonald et al. references, shows a floppy clutch mechanism that can couple and uncouple to each separate reel unit by a pivot motion, but lacks a torque limiter. The

reference of Lof '356 shows torque-limiting clutches using the friction plates, but lacks a shift member. Applicant's claimed device, on the other hand, has a shift member and a torque limiter, which is separate device and can respond to the rotatable drive shaft.

Response to Arguments

Claims 3, 5, 23, 25, and 43-54 have been canceled.

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection as set forth above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See U.S. Patent No. 4811433 and 4686747.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 571-272-6947. The examiner can normally be reached Monday through Friday from 8:00 A.M. to 5:30 P.M. alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Application/Control Number: 10/686,111
Art Unit: 3654

Page 7

Status information for unpublished applications is available through Private PAIR only.
For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SK

11/9/05

Kathy Matecki
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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600